

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-988X

**Nebkota Railway, Inc. – Abandonment Exemption –
In Sheridan and Cherry Counties, NE**

BACKGROUND

In this proceeding, Nebkota Railway, Inc., (NRI), has filed a petition under 49 U.S.C. 10502, seeking exemption from the provisions of 49 U.S.C. 10903 to abandon approximately 43 miles of rail line in Sheridan and Cherry Counties, Nebraska. NRI seeks to abandon its rail line between Milepost 374 at Rushville, Nebraska, and Milepost 331 at Merriman, Nebraska. The rail line traverses U.S. Postal Service Zip Codes 69218, 69343, and 69360. NRI states that there are three shippers on this section of rail line proposed for abandonment but that no objection has been offered. A map depicting the rail line in relationship to the area served is appended to the report. If the exemption becomes effective, NRI states that it will salvage track, ties and other railroad appurtenances, but leave the underlying railbed and each of the 24 trestles, bridges, or other structures, regardless of age, intact.

DESCRIPTION OF THE LINE

NRI proposes to abandon approximately 43 miles of rail line, much of which parallels U.S. Highway 20, between Milepost 374 at Rushville, Nebraska, and Milepost 331 at Merriman, Nebraska, and includes stations in the cities of Clinton, Gordon, Irwin, and Merriman. NRI states that it does not transport any overhead traffic and is unaware of any potential sources of new rail traffic in the foreseeable future. Furthermore, NRI states that based on information in its possession there are no Federally granted rights-of-way.

According to NRI, there are three active shippers on the portion of the rail line proposed for abandonment: 1) Farmers Co-op Elevator Company of Gordon; 2) Retzlaff Grain Company; and 3) West Plains Grain, Inc. NRI has submitted information stating that this section of its rail line has seen a continual decline in the number of carloads transported from 346 in 2002, 191 in 2003, and 108 in 2004.

ENVIRONMENTAL REVIEW

The railroad has submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The railroad has served the environmental report on a number of appropriate Federal, state, and local agencies as

required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated and reviewed the record in this proceeding.

The Board's Section of Environmental Analysis (SEA) has received comments from the following agencies stating that the proposed abandonment will have no adverse impacts: U.S. Department of Agriculture, Natural Resources Conservation Service; U.S. Army Corps of Engineers, Nebraska Regulatory Office – Omaha District; U.S. Department of Commerce, National Geodetic Survey; State of Nebraska, Department of Environmental Quality; Nebraska State Historical Society; and the Nebraska Public Services Commission.

Transportation

SEA's preliminary analysis of 2004 carload data (base year), indicates that 108 railcars would be diverted to trucks. The proposed abandonment, if approved, would result in 604.8¹ additional trucks or 1209.6 additional truck trips annually. When the additional trucks are calculated on a per day basis, an estimated 2.52 trucks (5.04 truck trips) per day would result during a 240 day year.² It is important to note that SEA is assuming an empty backhaul, which translates into approximately 5.04 trucks per day traveling on U.S. Highway 20. In analyzing transportation impacts, SEA used the communities of Rushville and Merriman because those are communities for which SEA was able to obtain the most current annual average daily traffic (AADT) information.

To further analyze the potential impact of the additional truck traffic, SEA calculated the increase in new truck traffic as a percent of total traffic as well as a percent of heavy truck traffic. SEA's analysis assumes a worst case scenario by projecting that all new truck traffic would use U.S. Highway 20. SEA determined that the percent increase in average annual daily traffic, based on a 240 day year (5.04 new truck trips per day in each direction) would result in the following:

Community	2004 AADT All Traffic	2004 AADT Heavy Truck Traffic	Percent Increase All Traffic	Percent Increase Heavy Truck Traffic
Rushville	2470	215	0.20	2.34
Merriman	1055	155	0.48	3.25

Based on the results above, SEA concludes that because the rail-to-truck diversions would constitute less than a 10 percent increase in AADT, the proposed abandonment, if approved, would not significantly contribute to traffic delay or adversely affect safety.

In addition, SEA notes that the elimination of 25 public and 10 private existing highway/rail at-grade crossing would likely have a positive effect on public safety.

1 SEA used a conversion of 5.6 trucks per railcar - railcars typically carry 100 tons while most trucks can transport 18 tons.

2. 240 workdays result when weekends and holidays are subtracted from a 365 day year.

Energy Consumption

SEA believes that the abandonment, as proposed, would not result in any adverse impact to local or regional transportation systems. SEA notes that there has been only 108 carloads transported over this portion of the rail line in 2004. All rail traffic has consisted entirely of agricultural products. Therefore, the proposed abandonment would not adversely affect the transportation of energy resources or recyclable commodities.

Land Use

NRI states that it has reviewed planning documents of the area proposed for abandonment and believes that the proposed action is consistent with the state and local planning agencies.

In an e-mail dated November 10, 2005, Mr. Richard Vaughn, U.S. Department of Agriculture, Natural Resources Conservation Service, determined that the abandonment, as proposed, would not result in any adverse impacts to prime farmland.

The Supervisors of Cherry and Sheridan Counties have not yet completed their review of the proposed abandonment. Therefore, SEA recommends that the Board impose a condition requiring NRI to consult with the Supervisors of Cherry and Sheridan Counties and report the result of these consultations to SEA prior to the onset of salvage operations.

Air Quality

The Board has established air quality and noise level threshold levels set forth at 49 CFR 1105.7(e)(5)(ii) and (e)(6). These thresholds are guidelines that are considered, along with other supporting information, to determine whether the air pollution and noise levels generated by rail traffic diverted to alternative modes warrant detailed analysis.

The applicable threshold levels for NRI are an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains per day on any segment of the rail line, or an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment. Because the proposed abandonment will not result in an increase of more than 10 percent of the average daily traffic or 50 vehicles per day on any affected road segment, SEA has concluded that the proposed abandonment would not result in any of these threshold levels being met or exceeded.

In a letter dated November 18, 2005, Mr. Hugh Stirts, NEPA Coordinator, Nebraska Department of Environmental Quality, stated that he had no comment regarding the proposed abandonment.

Solid and Hazardous Waste

In a letter dated November 18, 2005, Mr. Hugh Stirts, NEPA Coordinator, Nebraska Department of Environmental Quality, stated that he had no comment regarding the proposed abandonment.

Biological Resources

NRI states that it does not believe that the rail line proposed for abandonment will adversely affect any endangered or threatened species or areas designated as critical habitat, wildlife sanctuaries or refuges, national or state parks or forests.

The U.S. Fish and Wildlife Service, Mountain-Prairie Region (FWS), has not yet completed its review of the proposed abandonment. Therefore, SEA recommends that the Board impose a condition requiring NRI to consult with the FWS and report the result of these consultations to SEA prior to the onset of salvage operations.

The National Park Service, Midwest Regional Office (NPS), has not yet completed its review of the proposed abandonment. Therefore, SEA recommends that the Board impose a condition requiring NRI to consult with the NPS and report the result of these consultations to SEA prior to the onset of salvage operations.

Water Resources

In a letter dated November 15, 2005, Mr. Keith Tillotson, Senior Project Manager, U.S. Army Corps of Engineers, Omaha District, stated that based on information provided, the proposed abandonment does not include any of the activities listed under Section 404 of the Clean Water Act. Therefore, a permit would not be required.

The U.S. Environmental Protection Agency, Region 7 (USEPA), has not provided comments at the time this EA was prepared regarding potential permitting requirements of the proposed abandonment under Section 402 of the Clean Water Act. Therefore, SEA recommends that the Board impose a condition requiring NRI to consult with the USEPA and report the result of these consultations to SEA prior to the onset of salvage operations.

In a letter dated November 18, 2005, Mr. Hugh Stirts, NEPA Coordinator, Nebraska Department of Environmental Quality, stated that he had no comment regarding the proposed abandonment.

Cultural and Historic Resources

NRI states that there are a total of 24 bridges and/or trestles on the rail line, 23 of which are 50 years or older.

NRI states that it has no files in its possession regarding the dates of construction of the rail line or any other structures. NRI believes that if any such documents exist they are in the possession of Union Pacific Railway Company. However, NRI has stated that regardless of age, none of the 24 trestles, bridges, or other structures will be dismantled or removed.

NRI states that it does not believe that the rail line meets the criteria for listing on the National Register of Historic Places and that there is little likelihood of archaeological resources

or any other previously unknown historic properties in the project area. Furthermore, NRI states that, if the abandonment is approved, it intends to remove track materials, such as rails and ties, but to leave the underlying railbed and each of the 24 bridges, trestles, or other structures, regardless of age, intact. NRI does not intend to perform any activities that would cause sedimentation or erosion of the soil.

SEA conducted a search of the Native American Consultation Database at <http://www.cast.uark.edu/other/nps/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following nine tribes may have an interest in the proposed abandonment: Assiniboine and Sioux Tribes; Cheyenne River Sioux Tribe; Crow Creek Sioux Tribe; Lower Brule Sioux Tribe; Oglala Sioux Tribe; Rosebud Sioux Tribe; Santee Sioux Nation; Standing Rock Sioux Tribe; and the Pawnee Nation. SEA will ensure that each tribe receives a copy of this EA for its review and that the tribe is added to the service list for this proceeding.

In a letter dated November 14, 2005, Mr. L. Robert Puschendorf, Deputy State Historic Preservation Officer, Nebraska State Historic Preservation Office (SHPO), stated that there will be no historic properties affected by the proposed abandonment. In light of the information available, SEA concurs with the conclusion reached by the SHPO.

The U.S. Department of Commerce, National Geodetic Survey (NGS) has not completed its review of the proposed abandonment. Therefore, SEA recommends that the Board impose a condition requiring NRI consult with the NGS and report the result of these consultations to SEA prior to the onset of salvage operations.

CONDITIONS

In response to the concerns expressed by or due to the lack of a response received to date from the following: U.S. Fish and Wildlife Service, Mountain-Prairie Region; U.S. National Park Service, Midwest Regional Office; U.S. Environmental Protection Agency, Region 7; U.S. Department of Commerce, National Geodetic Survey; and the Commissioners of Cherry and Sheridan Counties, we recommend that the following conditions be imposed on any decision granting abandonment authority.

- 1. Nebkota Railway, Inc. shall consult with the U.S. Fish and Wildlife Service, Mountain-Prairie Region, and report the result of these consultations to the Section of Environmental Analysis prior to the onset of salvage operations.**
- 2. Nebkota Railway, Inc. shall consult with the U.S. National Park Service, Midwest Regional Office, and report the result of these consultations to the Section of Environmental Analysis prior to the onset of salvage operations.**
- 3. Nebkota Railway, Inc. shall consult with the U.S. Environmental Protection Agency, Region 7, and report the result of these consultations to the Section of Environmental Analysis prior to the onset of salvage operations.**

4. **Nebkota Railway, Inc. shall consult with the U.S. Department of Commerce, National Geodetic Survey, and report the result of these consultations to the Section of Environmental Analysis prior to the onset of salvage operations.**
5. **Nebkota Railway, Inc. shall consult with the Supervisors of Cherry and Sheridan Counties, and report the result of these consultations to the Section of Environmental Analysis prior to the onset of salvage operations.**

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and subject to the recommended mitigation measures, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

In a letter dated January 3, 2006, the Nebraska Game and Parks Commission filed a statement of willingness in order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29. However, in a letter dated January 9, 2006, NRI requests that the Board retain jurisdiction over the rail line until contractual disputes are resolved.

PUBLIC ASSISTANCE

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-988X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Mr. Brady, the environmental contact for this case, by phone at (202) 565-1643, fax at (202) 565-9000, or e-mail at bradyt@stb.dot.gov.

Date made available to the public: **January 31, 2006.**

Comment due date: March 2, 2006.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment